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ABSTRACT

This survey and analysis attempt to report on plans, programs, policies, and practices to meet the exigency situation, i.e., a decline in financial support and/or enrollments that require the release of professional staff -- tenured and non-tenured. The survey was made among institutions who were members of the American Association of State Colleges and Universities and/or the National Association of State Universities and Land-Grant Colleges. The report summarizes the questionnaire; raises a series of issues based on the methods, the problems, and some of the results of the plans formed by the institutions responding; includes six exigency plans that illustrate how public institutions of varying sizes and interests have dealt or are currently dealing with the problems of financial exigency. Finally, the policy statements adopted by the Association of American Colleges and the American Association of University Professors are included as materials to enable the institution to look at broad policies as well as analysing specific plans used by other institutions or systems. The intent of the report is to present guidelines and describe various plans that can be modified to suit the needs of a particular institution. (JMF)

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planning for financial exigency in state colleges and universities

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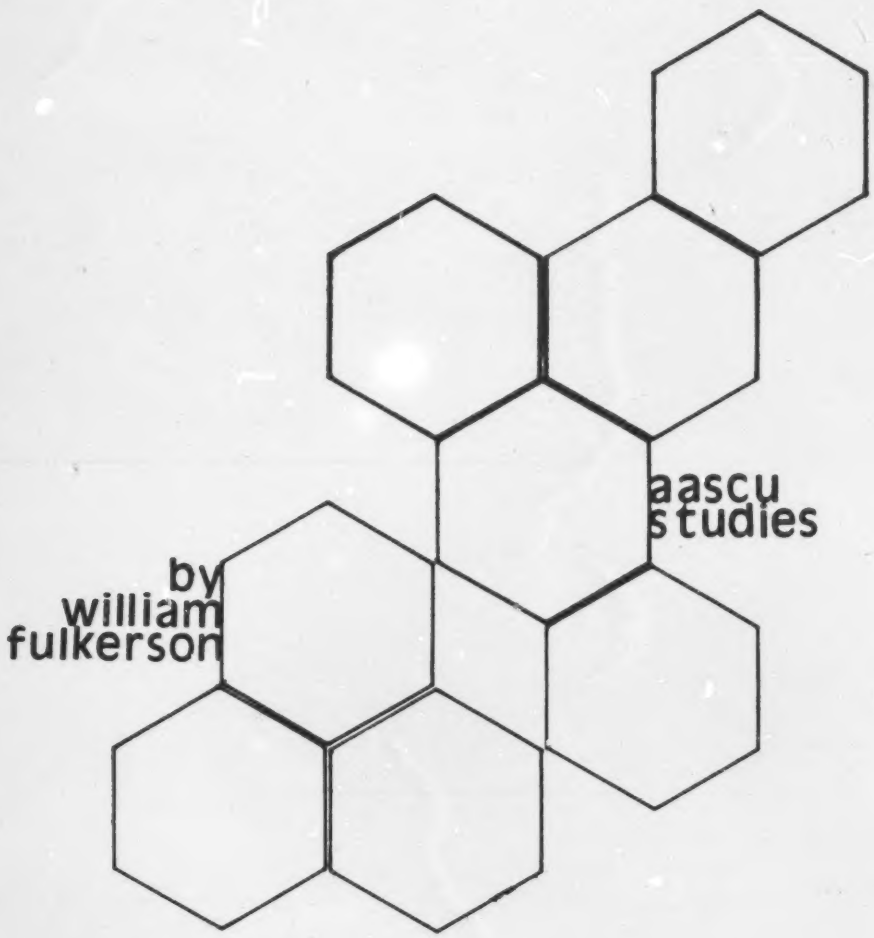

aascu studies

by william fulkerson

american association of state colleges and universities

TABLE OF CONTENTS

		Page
ANALYSIS		1
APPENDIX A	Memo to Presidents and Chancellors of State Colleges and Universities	11
APPENDIX B	Association of American Colleges Statement on Financial Exigency and Staff Reduction	12
APPENDIX C	American Association of University Professors on Institutional Problems Resulting from Financial Exigency: Some Operating Guidelines	16
APPENDIX D	Relating to Position Reduction Under Financial Exigency	19
APPENDIX E	Lay-Off and Recall Procedures	23
APPENDIX F	Interim Procedure for Tenured Faculty Lay-Off Reconsideration	25
APPENDIX G	Policies and Procedures for Lay-Off of Employees as a Result of Fiscal Year 1970-71 Budget Cuts	31
APPENDIX H	Fiscal Exigency Procedures	40
APPENDIX I	Introductory Statement for Policy and Procedures for Reduction/Reallocation in Force	55

This report was initiated through the American Association of State Colleges and Universities Committee on Academic and Student Affairs because the membership institutions had requested information about financial exigency situations.[1]

Some time ago, at the request of the Committee, James Karge Olsen set about surveying institutions of higher education in order to find out how an institution reacts when it is faced with "what is commonly called the exigency situation, i.e., a decline in financial support and/or enrollments that requires the release of professional staff - tenured and non-tenured."[2] The goal of the original survey was to prepare a general report on "plans, programs, policies and practices to meet the exigency situation."[3]

This report will attempt to carry out those goals, but some modifications should be noted. First, the report will attempt to present a summary of the data as interpreted by this writer and based on the questions asked by Dr. Olsen. Second, there will be

[1]John Pruis, (Chairman), President, Ball State University, Indiana; James Amsler, President, North Adams State College, Massachusetts; Richard Bjork, President, Stockton State College, New Jersey; James G. Bond, President, California State University, Sacramento; William B. Boyd, President, Central Michigan University; Thomas H. McGrath, President, California State College, Sonoma; Robert J. Nossen, Associate Provost-Regional Campuses at the University of Pittsburgh; Travis White, President, Midwestern University, Texas; Thomas Y. Whitley, President, Columbus College, Georgia; D. Whitney Halladay, (Board Liaison) President, Texas A&I University at Corpus Christi.

[2]A letter to Presidents and Chancellors of State Colleges and Universities, May 23, 1973. See Appendix A.

[3]Ibid.

a series of issues raised by this writer based on the methods, the problems, and some of the results of the financial exigency plans formed by the institutions. The letter to the Presidents and Chancellors promised anonymity in this report. Therefore, I have removed the names of the institutions in all quotations.

Third, I have included six exigency plans which illustrate how public institutions of varying sizes and interests have dealt, or are currently dealing with the problems of financial exigency. None of the plans are proposed as "the model" for institutions. However, by placing several plans together in a report, it is hoped that public institutions of varying sizes and shapes will be able to isolate issues, problems, and current shortcomings and compare their institutional plan to these models in order to create or modify a plan which solves their needs. Thus, these examples should be labeled descriptive rather than prescriptive.

Fourth, there is a copy of the statement adopted by the Association of American Colleges and a copy of the American Association of University Professors statement on the matter of financial exigency.[4] The inclusion of these materials enables the institution to look at broad policies, as well as analyzing specific plans used by an institution or system.

I.

The original survey letter was sent to 300 institutions who were members of the American Association of State Colleges and Universities and/or members of the National Association of

[4]See Appendices B&C.

State Universities and Land-Grant Colleges. There were sixty-two responses to the letter, although many of the respondents represented entire systems in place of single institutions. Many of the systems had procedures which were mandated by state law or by policy governing all state agencies. Thus, one response from that state was generally sufficient, although in some cases an individual campus had a more detailed methodology for making judgmental decisions.

The survey letter to the Presidents and Chancellors called for the following: "Would you therefore send me any pertinent criteria, policies, and procedures statements that you have employed, as well as a blank copy of any notice of termination you have used. Who were involved in the preparation of these documents? Your comments as to the consequences of your program would also be appreciated. Has there been understanding? Has there been contest by professional associations, e.g., AAUP, or by litigation? If so, what were the outcomes? Have you amended your original statement and procedures?"

Many of the respondents did not answer the questions as stated, but sent materials, or answered other questions, or addressed other important points. For instance, twenty-four institutions sent their plans and their faculty guidelines or handbook. Another eighteen institutions volunteered that their institution had terminated someone under their exigency plans. Twelve institutions indicated that they had released from one-

half a position to a high of fifty positions. The aggregate total of these twelve institutions represented one hundred thirty-four and a half (134.5) positions released as a result of financial exigency.

Most of the institutions which sent a copy of their plans also sent a copy of the termination letter. Many also indicated that they were unable to ascertain the consequences of their program since it was just being initiated. These institutions tended to be those colleges and universities which were subsidized almost entirely by student formula and through the state budget. Few schools answered the remaining questions because there was not enough time between the action and the reaction. Almost all of the grievances had been resolved through the institutions, according to the respondents. Most of the schools who had developed procedures which were outside the state code or mandated by state policies consulted their faculty on the forming of an exigency plan.

Finally, the commentary of many of the respondents can best be expressed by the following extracted quotations:

"Fortunately our institution has not yet been faced with the problem of an exigency situation . . . ."

"In response to your letter of May 23, regarding any financial exigencies and the results thereof on our staff, I am happy to report that we have had some financial exigencies but up to now it has not precipitated the release of either tenured or non-tenured faculty."

II.

The data in the report show that many other institutions were not so fortunate and that a large number of faculty and universities have had to face the realities of the recent enrollment slowdown and the ensuing financial problems.

Most of the respondents, especially those without exigency plans and policies and those who have not yet taken the steps of staff cutbacks, were interested in knowing the results of other administrative and faculty deliberations on these important policies and practices. The problems they face can be illustrated by this example:

> In the immediate future the University must deal with a series of budget reductions which will involve involuntary terminations of programs and positions. The magnitude of the economies confronting the University has been detailed in messages to the Faculty last April, September and December. These result from the state of financial exigency declared by the University on November 25, 1971, and by the State Board of Higher Education on December 17, 1971. In general, as you know, the crisis stems from shortfalls in the sources of funds in this biennium on which higher education operations depend: primarily, legislative appropriations, tuition and fees.
>
> Specifically, the University is now expected to effect reductions of $986,506 in the 1971-72 budget and $977,427 in the budget for the 1972-73 fiscal year. By direction of the State Board, the University is expected to make selective position reductions in, and redirections of, its academic programs.

The Mankato State College Information Services highlighted their plight in a news release on June 6, 1973:

> Enough faculty members have volunteered for leaves without pay in the Mankato State College English Department so that English faculty members who would have lost their jobs because of declining enrollment will not have to be dropped.

> Six faculty members in that department would have received one-year termination notices this quarter under requirements based on enrollment and projected enrollment. However, sufficient faculty members of the department volunteered for leave without pay to make this unnecessary, according to Dr. Robert Wright, MSC English Department chairman. The voluntary leaves of absence are equivalent to a reduction of six positions in the next two years.
>
> Eighteen faculty members are taking the leaves--two for the full 1973-74 year, one for the 1974-75 year and fifteen for one quarter each in 1974-75.

These concerns are not only economic, there are individual concerns as well. As one of our respondents noted:

> Underlying the allocation process is the fact that enrollment at the College is declining, thus necessitating a reduction in staff. The administration is well aware of the deep human concerns that are associated with these staff reductions. In their most aggravated form these concerns could be manifested in hostility, distrust, suspicion, and in a general deterioration of morale. It is not possible fully to treat these concerns in this paper. This, by no means, should be construed as a failure to recognize them or to care about them. It is, to the contrary, imperative that the College Community work cooperatively, honestly, and aggressively to understand these concerns and, wherever possible, to eliminate their source.

The importance of these concerns must be highlighted since any issue which requires significant financial adjustment needs to be analyzed as to its economic and human effect. The Association of American Colleges addresses this important responsibility of resource utilization in its November, 1971 statement:

> A college or university must dedicate all of its resources to the greatest possible achievement of its educational goals and purposes. Fiscal policy should reflect this commitment. In meeting this commitment unfavorable economic conditions may require an institution to reevaluate its priorities and reallocate limited financial resources. When it becomes necessary to cur-

tail or eliminate some educational programs and terminate some staff appointments, the importance of such decisions to an institution, its students, and the members of its academic staff requires the closest possible coordination of fiscal and academic planning. In particular, fair and effective procedures should be designed, if possible, before a crisis develops.[5]

The AAUP noted in its newsletter that:

Over the past eighteen months or so, the largest category of inquiries brought to the AAUP concerns financial austerity and resulting retrenchment in academic programs, the AAUP's Associate General Secretary Jordan E. Kurland observed in a recent article. The problems in this area present difficulties in arriving at short-term and long-term judgments, and engender sheer human anguish, to a degree which makes such problems of the recent past as boycotts and sit-ins seem superficial by comparison.[6]

The AAUP also provided a set of guidelines to enable the universities to deal with the problem in as fair a manner as possible on any given case.[7]

III.

The AAC and AAUP general guidelines illustrate the overall concerns of the universities and colleges as they ponder the results of their actions which emanate from a reduced financial base. The lack of growth, inflation, and the resulting stabilization, or in many cases the reduction, of resources has forced the institutions to prepare plans for meeting needs. Once the institution begins the planning stages a whole set of issues is brought into play. The most notable of these issues is the

[5]The entire statement and the recommended guidelines are in Appendix B.

[6]Academe, Vol. 6, No. 4, October, 1972, p. 2.

[7]The AAUP guidelines are in Appendix C

debate regarding the inherent values of the educational system when the institution reaches the decision to release staff. For instance, one proponent of the seniority system argued,

> . . . I am personally persuaded that the only fair way to determine the persons to be terminated is to adhere strictly to seniority, even in the face of the requirements of affirmative action programs and other factors that might tend to produce distortion. Unless one does this, the decisions become judgments. Judgments have to be defended, and there is almost no way to do it. Seniority is unambiguous and autocratic.

A collective bargaining agreement explains how that seniority philosophy is to be implemented:

> With respect to the application of Paragraph B2, above, retrenchment shall be made in inverse order of length of service from the most recent date of employment at the COLLEGE ("seniority"), provided the remaining FACULTY MEMBERS have the necessary qualifications to teach the remaining courses or perform the remaining duties.

Other institutions attempted to evaluate their staff on the basis of the institutional needs and other stated criteria (see specific plans in Appendices D through I).

There have been related issues pertaining to the conflict between values and seniority decisions. Recent Equal Employment Opportunity Task Force discussions have revealed a disturbing result of the lack of growth in the academic community. The reduction of staff creates pressure on the gains by minorities and women, as well as building automatic qualification or entry problems into the job market. There has been some additional discussion regarding the legality of seniority systems, as well as

the obvious challenges to abstract value guidelines. There will be considerable activity in this area in the near future.

Other questions frequently raised pertained to the decision-making apparatus. There have been examples of mandatory, across-the-board cuts which remove the need for decision making about who, or what positions, need to be cut. In some instances there was a close faculty involvement, and in other instances the decision was primarily an administrative responsibility. The examples included in this document assume a situation other than across the board reductions.

One final issue was evident as a result of the actions taken in the reduction or elimination of entire programs as a means of alleviating the fiscal squeeze. This method of resolving the financial problems produced a barrage of questions about the college or university's mission; questions which affect the long-term planning and future of the institutions, but which were ignored due to the immediacy of the impending fiscal reduction. Thus, faculty and administrations needed time to assess the potential effects of their actions on the programs, the students and the educational goals. This time was not always available.

IV.

The following appendices illustrate various approaches used in solving financial exigency when the decision has been made that the staff of the college or university must be reduced. The documents enclosed range from guidelines to specific procedures.

Some of the examples are not as precise as others. Some of the documents are couched in legal language and with the force of law as a result of state code.

Again, the intent of the reproduction of these guidelines, plans, and procedures is to provide the campuses with comparative materials in case financial exigency becomes a factor in the life of that campus.

APPENDIX A

AMERICAN ASSOCIATION OF
STATE COLLEGES AND UNIVERSITIES

May 23, 1973

TO: Presidents and Chancellors of State Colleges and Universities

FROM: Dr. James Karge Olsen, Consultant, AASCU

SUBJECT: Exigency

Many institutions of higher education have faced or will face what is commonly called the exigency situation, i.e., a decline in financial support and/or enrollments that requires the release of professional staff--tenured and non-tenured. In order to respond professionally and fairly to that situation our members seek the benefit of the experience and counsel of others.

We plan to prepare a general report, i.e., without institutional identification, as to plans, programs, policies and practices to meet the exigency situation. Would you therefore send me any pertinent criteria, policies and procedures statements that you have employed, as well as a blank copy of any notice of termination you have used. Who were involved in the preparation of these documents? Your comments as to the consequences of your program would also be appreciated. Has there been understanding? Has there been contest by professional associations, e.g., AAUP or by litigation? If so, what were the outcomes? Have you amended your original statement and procedures?

Any comments and advice which the Association can share among its members will be deeply appreciated.

APPENDIX B

ASSOCIATION OF AMERICAN COLLEGES

STATEMENT ON FINANCIAL EXIGENCY AND STAFF REDUCTION*

The 1940 "Statement of Principles on Academic Freedom and Tenure," which was co-sponsored and endorsed by the Association of American Colleges, recognizes that an institution may find it necessary to curtail or eliminate an academic program for reasons of financial exigency. Such program retrenchment may require termination of probationary and/or tenured members of the faculty. The 1940 Statement, which applied only to tenured faculty, provides in this regard that "termination of a continuous appointment because of financial exigency should be demonstrably bona fide."

The principles and procedures stated below are commended to institutions facing the necessity of curtailing educational programs and terminating tenured or probationary staff appointments.

A college or university must dedicate all of its resources to the greatest possible achievement of its educational goals and purposes. Fiscal policy should reflect this commitment. In meeting this commitment unfavorable economic conditions may require an institution to reevaluate its priorities and reallocate limited financial resources. When it becomes necessary to curtail or eliminate some educational programs and terminate some staff appointments, the importance of such decisions to an institution, its students, and the members of its academic staff requires the closest possible coordination of fiscal and academic planning. In particular, fair and effective procedures should be designed, if possible, before a crisis develops.[1]

In situations where curtailment or elimination of educational programs may be necessary for reasons of financial exigency the following guidelines may be useful:

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* This statement was originally prepared and endorsed by the AAC Commission on Institutional Affairs. It was reviewed and adopted by the AAC Board of Directors, November 8, 1971.

1. Consultation. Early in the process of making recommendations or decisions concerning program reduction, administrators and faculty policy groups should consult widely with their colleagues, students, and others in the college community. It is especially important that faculty members whose educational programs or positions may be adversely affected have an opportunity to be heard by those who will make the final decision or recommendation.

2. Data and Documentation. Every effort must be made to determine the nature of the fiscal limitations and within those constraints to establish appropriate educational priorities. Careful documentation of the evidence supporting a staff reduction decision is essential. Appropriate financial information, student-faculty ratios, qualitative program and course evaluations, enrollment data, and other pertinent information should be used to support a case of financial exigency. Except for confidential material of a personal nature this information should be widely shared among the college community.

3. Timing. Institutions should provide as much lead time as possible in making financial exigency decisions. In cases where faculty appointments are to be terminated timely notice of termination or nonreappointment must be given.[2] In extreme situations, if timely notice cannot be given, financial compensation to the faculty member proportional to the lateness of the notice may be an appropriate substitute for full notice.

4. Academic Due Process. When program reductions in response to financial exigency involve termination of faculty appointments special care must be taken to insure fairness and to protect and honor accepted procedures and rights appropriate to a faculty member's tenured or probationary status.[3] Faculty members must have an opportunity to be heard by those who will make the staff reduction decisions and those decisions must be subject to review by the highest institutional authority. Care should be taken not to confuse termination because of financial exigency with a proceeding that might lead to dismissal for cause.[4]

5. Elimination of a Faculty Position. If an appointment is terminated before the end of the period of appointment, because of financial exigency, or because of the discontinuance of a program of instruction, the released faculty member's place will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.[5]

6. Preferential Treatment. Tenured members of the faculty should normally be retained in preference to probationary appointees. This preferential status should include wherever possible an opportunity to transfer or readapt to other programs within the department or institution. If retention is not possible the institution should assume responsibility for assisting the faculty member in securing other employment. Preferential retention of tenured faculty should not, however, leave a reduced academic unit in the highly undesirable situation of lacking any probationary faculty. In some cases, tenured and probationary faculty may both have to be reduced.[6]

7. Alternatives. Early retirement and transfer from full-time to part-time service may be acceptable alternatives to termination in some situations of financial exigency. However, such decisions should be governed by the same guidelines and procedural safeguards as those which result in termination.

Footnotes

1. It is recommended that institutions inform all faculty appointees in writing at the time of their initial employment of the conditions under which appointments may be terminated for reasons of financial exigency.

2. Although not formally endorsed by AAC, the AAUP "Standards of Notice for Nonreappointment" have been widely accepted by the academic community. (AAUP Bulletin, Winter 1967, Vol. 53, No. 4, p. 407).

3. In this regard consult the AAUP "1968 Recommended Institutional Regulations on Academic Freedom and Tenure," paragraph 4c, AAUP Bulletin, Vol. 54, No. 4, Winter 1968, pp. 448-452, and "Procedural Standards in the Renewal and Nonrenewal of Faculty Appointments," AAUP Bulletin, Summer 1971, Vol. 57, No. 2, pp. 206-210. These AAUP policy statements have not been formally endorsed by AAC.

4. There may be some temptation to seize upon financial exigency as an occasion to remove an allegedly incompetent staff member. In the latter case the appropriate proceeding is a dismissal hearing and the faculty member is entitled to the protections and standards of due process set forth in the 1940 "Statement of Principles on Academic Freedom and Tenure," Association of American Colleges Bulletin, March, 1941, Vol. 27, No. 1, pp. 127-129, or AAUP Bulletin, Autumn 1970, Vol. 56, No. 3, pp. 323-326, and the "State-

ment on Procedural Standards in Faculty Dismissal Proceedings, "Association of American Colleges Bulletin, March 1958, Vol. 44, No. 1, pp. 125-130, or AAUP Bulletin, Winter 1968, Vol. 54, No. 4, pp. 439-441. Both of these statements have been endorsed by AAC.

5. The language of this paragraph parallels that of the AAUP 1968 "Recommended Institutional Regulations on Academic Freedom and Tenure" (see footnote 3).

6. Other considerations may also be germane in planning reductions which would force the institution to contradict its own goals and priorities or bring it into conflict with public policy. Strict adherence to preferential retention of tenured faculty members or strict recognition of seniority, for example, may result in disparate rates of reduction for women or members of ethnic and racial minorities and thus jeopardize recent progress toward fairer representation of these groups in the academic community. Staff reduction decisions may also raise problems in relation to laws and regulations governing discrimination.

APPENDIX C

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

November, 1971

ON INSTITUTIONAL PROBLEMS RESULTING FROM FINANCIAL EXIGENCY

SOME OPERATING GUIDELINES

1. There should be early, careful, and meaningful faculty involvement in decisions relating to the reduction of instructional and research programs. In making such decisions, financial considerations should not be allowed to obscure the fact that instruction and research constitute the essential reason for the existence of the university.

2. Given a decision to reduce the overall academic program, it should then become the primary responsibility of the faculty to determine where within the program reductions should be made. Before any such determination becomes final, those whose life's work stands to be adversely affected should have the right to be heard.

3. Among the various considerations, difficult and often competing, that have to be taken into account in deciding upon particular reductions, the retention of a viable academic program should necessarily come first. Particular reductions should follow considered advice from the concerned departments, or other units of academic concentration, on the short-term and long-term viability of reduced programs.

4. As particular reductions are considered, rights under academic tenure should be protected. The service of a tenured professor should not be terminated in favor of retaining someone without tenure who may at a particular moment seem to be more productive. Tenured faculty members should be given every opportunity, in accordance with Number 4(c) of the Association's Recommended Institutional Regulations on Academic Freedom and Tenure,* to readapt within a department or elsewhere within the institution; institutional resources should be made available for assistance in readaptation.

5. In some cases, an arrangement for the early retirement of a tenured faculty member, by investing appropriate additional institutional funds into his retirement income (and ordinarily feasible only when social security benefits begin), may prove to be desirable if the faculty member is himself agreeable to it.

6. In those cases where there is no realistic choice other than to terminate the services of a tenured faculty member, the granting of at least a year of notice should be afforded high financial priority.

7. The granting of adequate notice to nontenured faculty should also be afforded high financial priority. The nonreappointment of nontenured faculty, when dictated by financial exigency, should be a consideration independent of the procedural standard outlined in the Recommended Institutional Regulations 4(c), with one exception: when the need to make reductions has demonstrably emerged after the appropriate date by which notice should be given, financial compensation to the degree of lateness of notice is an appropriate substitute for full notice.

8. A change from full-time to part-time service, on grounds of financial exigency, may occasionally be a feature of an acceptable settlement, but in and of itself such a change should not be regarded as an alternative to the protections set forth in the Recommended Institutional Regulations 4(c) or as a substitute for adequate notice.

9. When one institution merges with another, the negotiations leading to merger should include every effort to recognize the tenure of all faculty members involved. When a faculty member who has held tenure can be offered only a term appointment following a merger, he should have the alternative of resigning and receiving at least a year of severance salary.

10. When financial exigency is so dire as to warrant cessation of operation, the institution's highest obligation in settling its affairs should be to assist those engaged in the academic process so that, with minimal injury, they can continue their work elsewhere.

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*Recommended Institutional Regulations 4(c): Where termination of appointment is based upon financial exigency, or bona fide discontinuance of a program or department of instruction, Regulation 5 will not apply, but faculty members shall be able

to have the issues reviewed by the faculty, or by the faculty's grievance committee, with ultimate review of all controverted issues by the governing board. In every case of financial exigency or discontinuance of a program or department of instruction, the faculty member concerned will be given notice as soon as possible, and never less than 12 months' notice, or in lieu thereof he will be given severance salary for 12 months. Before terminating an appointment because of the abandonment of a program or department of instruction, the institution will make every effort to place affected faculty members in other suitable positions. If an appointment is terminated before the end of the period of appointment, because of financial exigency, or because of the discontinuance of a program of instruction, the released faculty member's place will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

APPENDIX D

Relating to Position Reduction Under Financial Exigency

A. The cause of emergency reductions in University faculty and classified staff positions, and of provision of less than normal notice to employees being terminated, is the financial exigency which the President of the University and the State Board of Higher Education have determined to exist.

B. Institutional decisions on program and position reductions will be consistent with the follcwing criteria:

1. Institutional guidelines respecting educational development and responsibilities;
2. The availability of similar programs and services in other educational institutions within the . . . . area; and
3. Departmental and/or program effectiveness and productivity.

C. Position decisions during the exigency will comply with the following policies.

1. No position decision will be based on grounds prejudicial to the race, sex, ideological or moral views of staff members;
2. Academic teaching functions will be given first priority for available funding, insofar as possible;
3. Positions held by non-tenured faculty normally will be considered for termination before positions held by tenured faculty;
4. Departments will give maximum possible notice to employees to be terminated;
5. Where program requirements permit, positions vacated because of the resignation, retirement or death will not be filled during the exigency;
6. The review of departments and programs of the colleges and schools for consistency with the criteria in Section B, above, will be continual;
7. Adequate provision will be made by Vice Presidents, Deans, department heads and other supervisors for exploring opportunities for transfer of personnel to be terminated where capability can be demonstrated, and in accordance with sub-section 3 above; and

8. To the extent possible, guidelines of AAUP and . . . . will be considered in making position reductions.

Procedures for Effecting Terminations of Academic Positions Under Financial Exigency

A. Each position termination to be made for reasons of financial exigency shall involve:

1. A determination by the President that a proposed reduction is consistent with institutional guidelines respecting educational development and responsibilities;

2. Participation of the department in the determination of faculty positions to be terminated;

3. Review of the departmental recommendation by the cognizant Dean and Vice President;

4. Final determination by the President and written notice of termination.

B. Any academic employee receiving notice of termination for financial exigency may appeal the decision if he or she claims that any of the University policies Relating to Position Reductions Under Financial Exigency has been violated in his or her termination.

C. This appeal will proceed as follows:

1. The employee being terminated may seek assistance in formulating his appeal from the Chairman of the Advisory Council, who will assign two senior faculty members for this purpose, or the employee being terminated may use legal counsel of his own choosing and at his own expense;

2. Such appeal must be presented in writing to the cognizant Vice President by the appellant within ten calendar days (or within such extension of time as permitted for cause by the President) of the date of the formal termination notice by the President;

3. The Vice President will confer with the appellant and other appropriate persons and will make a decision in writing, within three calendar days of its receipt, to sustain or reject the appeal;

4. If the decision of the Vice President is unacceptable to the employee being terminated, he may then appeal within three calendar days of the date of the Vice President's decision (or within such extension of time as permitted for cause by the President) to a special hearing committee to be comprised of at least four members of the Advisory Council, the Chairman or Vice Chairman of the Faculty Senate, or appointed alternative, and a presiding officer selected by the Advisory Council in consultation with the President;

5. This appeal to the special hearing committee shall be conducted so as not to exceed 15 calendar days elapsed time (or within such extension of time as permitted for cause by the President) from receipt of the appeal by the Chairman of the Advisory Council to the rendering of the committee's recommendation, which will be communicated in writing to the appellant and to the President;

6. Statements concerning due process procedures in the hearing, incorporated in existing grievance procedures, shall be considered to apply to the present procedures under exigency, except when, on agreement of all parties, it is concluded that the need for prompt decision outweighs other considerations. Under authority of the President, relevant records will be made available on request of the presiding officer. A tape recording of the proceedings of the special committees shall be made in each case appealed to the committee and shall be preserved by the University for at least one year from the date of the recommendation of the committee to the President.

7. The President will then make a final decision, which will be communicated in writing within three calendar days to the appellant, the Chairman of the Advisory Council, the cognizant Vice President, Dean and department head;

8. The appellant, at his or her option, may then give to the President, either orally or in writing, any exceptions which the appellant may wish to register with respect to the conduct and findings of the hearing committee and the President's decision based thereon. The communication of the President's decision, however, will constitute final action by the University and will stand as written, even in the event the appellant registers exceptions with the President, unless the appellant is notified in writing to the contrary within ten days of the presentation of the exceptions; and

9. Finally, as in any other grievance proceeding, the faculty member being terminated may seek a review hearing before the State Board of Higher Education.

January 7, 1972

APPENDIX E

LAY-OFF AND RECALL PROCEDURES

It is understood that in a viable, complex and multi-faceted University, it may be necessary to adjust programs and staff through normal attrition. Historically, this adjustment has been accomplished by not renewing term contracts in specific units, departments or colleges. This provision and accompanying procedures do not apply to this historic practice.

In circumstances other than those stated above it may be necessary because of substantial curtailment or discontinuance of a program or extraordinary financial exigency to make reductions in personnel. In such cases the following language shall apply.

The University President, or his designee, shall call a meeting between representatives of the Administration and of the Association to discuss potential solutions to problems which may arise because of a need to make such reductions in personnel.

Layoffs and recalls shall be made from among bargaining unit members in the affected units, departments, programs or colleges consistent with the educational goals and program specialties of the affected departments, programs, colleges or units in the following order:

I. Layoffs

a. A member of the bargaining unit about to be placed on layoff status shall be given preference in filling other vacant academic positions in the University for which he/she is qualified.

b. Non-tenured and non-continuing service persons, whose initial employment or contract renewal occurred after the date of this Agreement, shall be laid off during the term of their contracts, with those having the most service in the particular unit being laid off last.

c. Tenured and continuing service persons shall be laid off with those having the most service in the particular unit being laid off last.

II. Notice

Notice of layoff shall occur as follows:

a. Non-tenured or non-continuing service persons, whose initial employment or contract renewal occurred after the date of this Agreement, and who are to be laid off during the terms of their contracts, shall receive six (6) months' notice if the term contract expiration date is less than twelve (12) months away and shall receive twelve (12) months' notice if the term contract expiration date is more than twelve (12) months away.

b. Tenured or continuing service persons who are to be laid off shall receive eighteen (18) months' notice.

III. Recall

Recall shall be in the following order:

a. Bargaining unit members who have tenure or continuing service shall have recall rights for two (2) years for an available academic position in accordance with their qualifications. Where practicable, recall shall be in inverse order of layoff. No new employee shall thereafter be hired for an academic position if the University is provided information on an annual basis that a previously laid off employee is available and if that laid off employee is qualified for that position.

b. Bargaining unit members who are on term contracts and who are laid off shall have recall rights through the end of their term contracts for an available academic position in accordance with their qualifications. Where practicable, recall shall be in inverse order of layoff. The University's obligation to employ a person for the remainder of a term contract shall not be taken as a claim for a renewal of such.

APPENDIX F

SUBJECT: Interim Procedure for Tenured Faculty Lay-off Reconsideration

Attached is the Interim Procedure adopted by the Board of Regents at its June 8, 1973 meeting to be used:

1. When you receive a formal request from the faculty member affected for an explanation of the reason(s) for lay-off;

2. If you receive a request subsequent to (1) above for a reconsideration proceeding to review the lay-off decision.

The Preamble to the Interim Procedure is an affirmation by the Board of the importance of consulting with appropriate faculty on decisions concerning academic program contraction or elimination, and on decisions concerning the particular faculty members who may have to be laid off in consequence of such contraction or elimination. The Preamble provides a point of reference for future action, but does not bear immediately upon the reconsideration Interim Procedure to be made available to tenured faculty members who have already received notice of lay-off for 1974-75. However, the Preamble and Interim Procedure should be circulated to all faculty.

The Interim Procedure is a document which you must transmit promptly to all tenured faculty members who received lay-off notice. Please use registered mail for such transmission, since the date of actual receipt of the Procedure establisnes the time frame within which a request for reconsideration must be made.

The remainder of this Memorandum provides guidelines concerning:

A. General considerations affecting the purpose and conduct of response to requests for reconsideration;

B. The nature of the written explanation which should be provided faculty members formally requesting it.

B. The guidelines for conducting reconsideration proceedings.

A. General considerations

It is important that you be able to reaffirm beyond reasonable doubt that valid decisions concerning program reductions, joined to fiscal necessity, dictated the staff reductions in particular sub-units, and that the choice of the particular person was made reasonably according to standards consistent with the instructions issued by the President and Central Administration, and the procedures and/or criteria established in your Institution for particular application.

We must be certain beyond reasonable doubt that each lay-off followed from programmatic and fiscal considerations, and that these considerations have not been used as a cloak for an action to separate a particular person from the University because of actions on his or her part which are constitutionally protected, or because of judgments concerning his or her performance and conduct which would be more properly related to a decision to terminate.

To be sure, a department faced with a valid requirement that it reduce staff because of programmatic and fiscal decisions could follow an Institution's guideline permitting it to make its decision as to the person or persons to receive lay-off notice on the basis of collegial judgment. This judgment would be an appropriate basis for a lay-off decision if it followed from a determination concerning the relative worth of the person or persons selected to meet the department's most essential programmatic requirements. In this case, the person or persons selected for lay-off would have been selected not because of manifest inefficiency or bad conduct, but because their particular skills were less relevant to programmatic requirements than the skills of those not laid off. In such cases, the department should provide careful documentation that the decision was in fact consistent with System and Institution guidelines, and did flow from programmatic and fiscal considerations.

If at any time following a request for reconsideration, the Chancellor should determine that reasonable doubt exists as to the fact that programmatic and fiscal consideration were the basis for the lay-off of a particular person, then notice of lay-off should be voided and either or both of the following steps taken: (a) initiation of a validly based determination of the person or persons to receive lay-off notice by reason of programmatic and fiscal considerations; and/or (b) as appropriate, initiation of a notice of termination.

These observations are not based on any assumption that any faculty or invalid decisions have been made concerning lay-off notices. The observations are made in recognition of the fact that we have initiated a new category of personnel actions in the University System, and we must take every reasonable precaution that the actions taken are fully consistent with the programmatic and fiscal considerations which underlie the necessity of lay-off actions.

B. The nature of the "written explanation" which should be provided faculty members formally requesting it.

The new procedures will require that you determine who can best inform the faculty member about the rationale for the decision in his or her particular case. The procedure provides that the person affected, upon request, is entitled to a written explanation of the reasons for the lay-off. This explanation must be sufficient to indicate to the affected faculty person:

1. That financial and programmatic needs* dictated staff reductions;

2. What general policy considerations entered into the decision; and

3. How that person or that position was identified for lay-off.

It is necessary to show that there is sufficient reason to lay-off the faculty person. It is not necessary for the university to show that it considered all available alternatives before deciding to lay-off the faculty person.

C. The guidelines for conducting reconsideration proceedings

After receipt of a written explanation, the faculty member may then initiate a separate written request to the Chancellor for a reconsideration proceeding. Once a committee is appointed, it, and the faculty member, should be apprised of the following guidelines:

1. For purposes of the reconsideration proceeding, the faculty person should have access to university documents which were used to make the decision. This will include such items as the proposed institution and sub-unit budgets, any procedures or criteria established for your institution which were used to make decisions and the general guidelines promulgated by the President and Central Administration relating to budget and lay-offs.

2. The proceeding itself should be tape-recorded to create a record. At the request and payment of the cost by the faculty person, a copy of that tape will be provided.

3. The proceeding should be closed to the public unless the affected person requests that it be open.

4. The affected faculty person may be accompanied by counsel and may offer witnesses with testimony having reasonable probative value which is material and relevant to the lay-off decision.

5. The faculty person shall be given the opportunity to present his or her reasons and supporting data to show that there is not sufficient evidence to support the decision or that there were material procedural deviations. The person must show that the material which was considered was not enough to justify the decision in any case. It is not permissible for the faculty person merely to ask the committee to reconsider the case because the policy decisions are alleged to be incorrect or because all material was not considered.

6. The university will not place information into evidence at the reconsideration proceeding. The basis for its decision will have been made available to the faculty person and the committee prior to the proceeding. It is his or her responsibility, by placing before the committee information which bears on the issues, to convince the committee that the decision cannot be sustained.

7. The committee can obtain whatever additional information it requires from university files.

8. Although the university will not make any formal presentation, it should be afforded an opportunity to correct what it judges to be erroneous or misleading information before the committee and to do so before the committee closes the proceeding to deliberate on its recommendation.

University Counsel will provide guidance to the reconsideration committees at their request. Counsel can be present, if requested, to provide guidance and counsel at the first proceeding on your campus. Since these are not intended to be adversary proceedings, counsel will not be present at subsequent proceedings although advice will be available.

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*The phrase "financial and programmatic needs" includes, but is not limited to, causal factors, such as institutional fiscal exigency, reduced divisional or departmental workload, and institutional decisions to reduce or eliminate low priority activities in order to support higher priority, mission-related needs.

TENURED FACULTY LAY-OFF

A. Preamble

The Regents affirm that the faculties of the . . . . are to be involved along with the Chancellor and Administration in the operation of their respective Institutions. This relationship should include consultation by the Chancellor with the appropriate faculty body or bodies in academic program planning and academic program contraction or elimination. Appropriate procedures for effecting such consultation should be developed at each Institution.

Where decisions have been made following full and meaningful consultation to reduce or eliminate an academic program, the procedures to be developed should include provision for the Chancellor and deans to advise the heads of affected programs and departments, and to request from the appropriate faculty committees their recommendations as to the individual faculty members to be released.

B. Interim Procedure for Reconsideration of Tenured Faculty Lay-offs Effective

1. If the tenured faculty person requests, within 10 days of the receipt of these procedures, the Chancellor shall have the department chairman or dean of the school or college provide to the faculty person a written explanation of the reason(s) for lay-off. The statement of reasons shall be provided not later than 15 days after the Chancellor receives the request.

2. The faculty person may request a reconsideration proceeding to review the decision to lay-off only after the faculty person requests and receives the written explanation. The request for reconsideration must be made to the Chancellor in writing within 15 days of the receipt of the explanation. The request for reconsideration shall be limited to: (a) whether there is sufficient evidence to support the decision to lay-off, and/or (b)whether there have been material deviations from the procedures established by the President and Chancellor relating to determination of fiscal and programmatic needs of the University.

3. The Chancellor, with advice from the faculty governing body, shall appoint a committee for the purpose of conducting all lay-off reconsideration proceedings. The committee shall include at least five tenured faculty

persons. No person who took part in the original decision to lay-off the faculty person may sit on the committee during that person's reconsideration proceeding. Presentations before the committee shall be limited to the issues set forth above. The committee shall conduct the reconsideration proceeding not more than 30 days after the request is made to the Chancellor, unless waived by the affected faculty person. If a waiver is requested, the reconsideration proceeding shall be conducted within 90 days after the request for reconsideration.

4. The committee shall report its findings and recommendations to the Chancellor who shall inform in writing the faculty person of his decision within 10 days. The decision of the Chancellor shall be final.

The Central Administration is directed to issue guidelines specifying the procedures to be followed on letters of explanation on the lay-offs and on conducting reconsideration proceedings.

APPENDIX G

Subject: Policies and Procedures for Layoff of Employees as a Result of Fiscal Year 1970-71 Budget Cuts

The purpose of this letter is to establish the policies and procedures to be used in laying off employees affected by the elimination of positions in designated program areas as a result of the budget cuts for Fiscal Year 1970-71. The Budget Planning and Administration Office is issuing a letter concurrently that will indicate the dollar reductions in given program areas that each college will have to meet.

Each State College President is responsible for determining and recommending to the Chancellor the classes of positions and/or teaching service areas to be reduced and the number of employees therein that will be laid off. The reductions of positions by the Presidents in the designated program areas will be in accordance with Legislative intent. Each President is responsible for complying with the legal and regulatory requirements in . . . . and the attached procedures.

The Chancellor shall make all final determinations on the classes and teaching service areas to be reduced, the number of employees therein to be laid off, and adherence to expressed Legislative intent, both for each college and for the Office of the Chancellor.

While these procedures cover reductions in both faculty and non-faculty positions, it is assumed that no probationary or permanent faculty member will have to be laid off. The reduction in faculty positions should come from vacant or uncommitted part-time positions. In the event this method does not produce the necessary dollar reductions and employees will be affected, then the layoff procedures will have to be used. If it appears that any tenured or probationary faculty member may be subject to separation as a result of layoff, please report it immediately to this office. We will then work with the colleges directly in the implementation of the procedures or the possible relocation of personnel, if necessary.

The actual number of employees terminated at any one college is expected to be minimal, since most of the positions to be reduced will be either new or vacant and, therefore, may not affect any existing employees directly. However, in the event that any employees may have to be separated, layoff procedures must be implemented.

. . . states that 30 days' notice shall be given whenever possible. Due to lack of funds, it is not possible to give 30 calendar days notice prior to the effective date of layoff. Every effort should be made to have the effective date of separations no later than . . . . but in no case should the notice be less than 15 calendar days prior to the effective date of separation.

In some instances, an employee may have the right to transfer to another position or to elect demotion in lieu of layoff. In such cases, he must respond in writing within five calendar days after receipt of his layoff notice. If he, in turn, "bumps" an individual who also has the right to elect demotion in lieu of layoff, the process and the time requirements are repeated.

No promotion or reclassification actions should be taken until further notice by this office. Also, no reassignments to new or vacant positions should be made other than those required by implementation of the layoff procedures. (In those instances in which the duties and responsibilities of individuals change as a result of reassignment to new or vacant positions, a new . . . . should be prepared. Position descriptions for those classes not on the list should be submitted to this office for classification action.)

Detailed guidelines for implementing layoff procedures are attached. However, as basic requirements, the President will:

1. Determine the specific class or classes of positions or teaching service area to be reduced to meet the budgetary intent.

2. Determine the number of positions in each class or teaching service area to be reduced.

   For planning purposes, the President should have information <u>by class</u> of each vacancy in the class and each employee in the class. The employee's status in that class, his permanent status in any other class or classes, and his length of service in each class should be indicated.

3. Report to the Chancellor his recommendations regarding Items 1 and 2.

4. After approval by the Chancellor if it is necessary to lay off individuals, implement the layoff procedure:

   (a) Develop a Seniority List of employees for each class of position or teaching service area to be reduced. (Details are in the attachment.)

   (b) Determine those employees with the least number of seniority points who will be subject to layoff because of the reduction of certain positions.

   (c) Send notices of layoff to the employees affected.

   (d) Determine if transfer or demotion in lieu of layoff is appropriate, if the employee so chooses.

   (e) Adhere to time requirements for the various stages of the layoff process.

   (f) Establish and maintain re-employment lists.

. . . requires that the Chancellor's Office survey all State Colleges to ascertain if relocation possibilities exist at other colleges for employees who will be laid off. The procedures for carrying this out for non-academic, administrative, or academic-related employees are as follows:

Since the itemizing of vacancies would require considerable work by the colleges, we would like to defer this process until we obtain specific information on the number and classes of employees to be laid off. Therefore, please report to this office any tenured academic-related employees or any administrative or non-academic permanent employees who will be separated.

Then, if information as to specific vacancies from all the colleges is needed, we will request it at that time. Also, please report on a separate list those temporary or probationary non-academic, administrative, or academic-related employees who are separated but who, after thorough effort by the college, cannot be relocated at another State College, state service, or in other public jurisdictions or private organizations. If vacancy reports from other colleges are needed to facilitate the college's efforts to relocate employees, please contact this office.

Because of the unique nature of the work of the Laboratory School teachers and the fact that the program is being eliminated completely at four colleges, the Office of the Chancellor will work with representatives of the colleges in an effort to seek relocation opportunities for those teachers who are separated, by contacting the public schools, school superintendents, state agencies, and others who might have vacancies appropriate to the special skills and abilities of the Laboratory School teachers.

All records and work papers used in determining the Seniority Lists, re-employment lists, and other details of the layoff should be retained by the college for post audit.

If you have any questions on these matters, please contact . . . . She will also be responsible for coordinating the relocation program.

GUIDELINES FOR SEPARATION OF EMPLOYEES FROM SERVICE FOR LACK OF FUNDS OR LACK OF WORK

A. Determination of Classes or Teaching Service Areas to be Reduced:

1. The President shall recommend to the Chancellor the classes or teaching service areas to be reduced and the number of employees therein to be laid off. The Chancellor shall make all final determinations pertaining thereto for each college and the Office of the Chancellor for the purpose of insuring adherence to expressed Legislative intent.

B. Area of Layoff:

1. Layoff of administrative and non-academic employees shall be by class within a particular college.

2. Layoff of academic employees shall be by teaching service area within a college.

3. Layoff of academic-related employees who have not had a teaching service area shall be in accordance with Item B 1.

C. Order of Layoff:

1. Employees in a class or teaching service area to be reduced shall be laid off in the following order:

   (a) Temporary employees. (Temporary employees may, at the discretion of the President, be laid off before any other employees, without regard to class or teaching service area.)

   (b) Probationary employees without regard to length of service, except when they are competing with other probationary employees.

   (c) Permanent employees.

      (1) Administrative and non-academic employees in the inverse order of their length of employment both in the class to be reduced and in classes of equal or higher rank.

      (2) Permanent academic employees in the inverse order of their length of employment in the colleges, credit to be figured from the beginning of their probationary periods.

      (3) Permanent academic-related employees in the inverse order of their employment in the class to be reduced or in classes of equal or higher rank.

      (4) Part-time permanent employees shall be credited with service as permanent employees in the proportion that actual time served bears to full-time employment.

2. In case of ties in terms of credit for length of service, the President shall determine which of such employees shall be laid off.

   (a) The standards or criteria used to break ties must be applied consistently to all employees subject to layoff.

D. Method for Computing Seniority Scores:

1. Seniority is calculated on basis of the official class of record to which the employee has been assigned regardless of the nature of the work performed.

2. One point is credited for each month of full-time service or proportional credit for the service of part-time permanent employees in the class to be reduced or in classes of equal or higher rank in any of the . . . .

3. State employees employed on June 30, 1961, carrying out functions transferred to the . . . . of the . . . . shall be given credit for the full-time or part-time service in any of the State Colleges or Department of Education.

4. The President will determine if a leave of absence without pay by a permanent or tenured employee is considered a break in service or if the time is creditable in calculating seniority.

5. All questions regarding the crediting of military service of any employee subject to layoff should be referred to this office.

6. Separate Seniority Lists which identify the particular status of the employee (permanent, probationary, or temporary) and which rank the employee in terms of length of service within each status group should be developed for each class or teaching service area in which positions are to be reduced.

7. The employee with the lowest ranking or the least number of seniority points in each class or teaching service area in which positions are to be reduced is identified for layoff. This process is continued until the number of positions that have to be eliminated has been reached.

E. Notice of Layoff:

1. Each employee subject to layoff is to be notified by the President in writing that he is being laid off due to lack of funds.

2. The notice shall be either sent by certified mail return receipt requested, to the employee's last known address, or be delivered to the employee in person. The employee shall acknowledge receipt of the notice either by writing to the President or by returning a signed copy of the notice letter. (A sample letter of notice is attached.)

3. The notice shall specify the effective date of layoff.

4. The employee should be given at least 30 days notice whenever possible, but not less than 15 days, prior to the effective date of layoff. (Every effort should be made to have the effective date of separation no later than July 31.

F. Demotion or Transfer in Lieu of Layoff:

1. In lieu of being laid off, an administrative or non-academic employee may elect demotion or transfer to any class in which he has served as a permanent employee, or to any vacancy for which he is qualified.

2. In lieu of being laid off, an academic employee may elect transfer to another teaching service area in which he has served longest during the preceding four years in the particular college, providing the following two conditions exist:

   (a) If the employee, during the four year period immediately preceding the date of the mailing of the layoff notice, taught at least 24 semester units or 36 quarter units in any one teaching service area other than the teaching service area in which he is teaching on the date of the mailing of the layoff notice.

   (b) If the employee has not previously during that academic year elected transfer in lieu of layoff.

3. An academic-related employee who does not have a teaching service area is covered under Item F 1.

4. An employee electing demotion or transfer shall notify the President in writing of his election within five (5) calendar days after receipt of the notice of layoff.

5. The seniority score for an employee electing demotion must be recomputed on the basis of the class to which he is moving and his ranking on that Seniority List is determined by this seniority score.

6. Any permanent employee who is displaced as a result of a voluntary demotion has the same set of options as if his position had been eliminated. The process for this displaced employee is repeated.

7. Any employee demoted or transferred in lieu of layoff shall receive the maximum of the salary range of the class to which he is demoted, provided that such salary is not greater than the salary he received at the time of the demotion or transfer.

G. Re-employment Rights:

1. The President shall establish and maintain for a period of five (5) years re-employment lists of all permanent employees laid off for lack of funds.

2. Laid off employees shall be listed by class or teaching service area corresponding to the class or teaching service area from which they were laid off.

3. The college may not fill a vacancy in a class or teaching service area for which there are names on its re-employment list without first making an offer of re-employment to these individuals.

4. A separate list should be established and maintained at each college which identifies those employees who elected to accept a demotion or transfer in lieu of being laid off. Notwithstanding paragraph G 3, these employees should be given first consideration in filling any positions which are equal or comparable to the positions from which they were demoted or transferred.

5. An employee who is on a re-employment list and receives an offer of employment must respond within the following times:

   (a) When the person resides in the city from which the offer is mailed, five (5) days after the date the offer is received.

   (b) When the person resides outside such city, seven (7) days after the offer is received.

   (c) When the offer is made by telephone or telegram, forty-eight (48) hours after the offer is received.

6. It is the responsibility of the person laid off to keep the office maintaining the re-employment list informed of where he may be reached readily.

7. Any person on a re-employment list who cannot be reached within five (5) days or who fails to respond within the specified time limits shall be deemed to have declined the offer.

8. The President, at his discretion, may excuse the failure of any person to respond and the person may be re-employed or his name may be continued on the re-employment list.

9. Any person whose name is on a re-employment list may request inactive status for a prescribed period not to exceed one (1) year.

10. If any person whose name is on a re-employment list declines two offers of re-employment, his name shall be removed from the list. Any name so removed from the list may be restored at the discretion of the President.

11. Any person re-employed shall be re-employed in a class at a level at least equal to that from which he was laid off.

H. Relocation Opportunities:

In order to ascertain the availability of suitable positions where tenured or professional staff to be laid off may seek relocation, the Office of the Chancellor will collect information on specific vacancies. The Office of the Chancellor will also collect information on temporary or probationary employees and non-professional employees who are separated and who, after thorough effort by the college, cannot be relocated.

I. Lump Sum Payment Upon Separation from Service:

Any unused vacation and uncompensated overtime to which an employee is entitled is paid for in lump sum at the time of layoff.

APPENDIX H

FISCAL EXIGENCY PROCEDURES

The committee charged with responsibility for making recommendations, upon the declaration of a fiscal exigency by the President, regarding reductions in the professorial staff in the event of a fiscal exigency[1] shall be the College Planning and Budgeting Committee which shall make its recommendations directly to the Vice President for Academic Affairs.[2]

The data which should guide the College Planning and Budgeting Committee in its recommendations should be those described on pages 7 - 10 of the Final Report of the Task Force on Fiscal Exigency and possibly other appropriate data. Such data will be collected and provided to the College Planning and Budgeting Committee by the Office of Institutional Research.

CRITERIA AND PROCEDURES TO BE USED IN MAKING DECISIONS ON PROGRAMS AND STAFFING

1. In determining that overstaffing exists within a particular department and/or that a major should be dropped, the College Planning and Budgeting Committee should utilize the following criteria:

   A. DECISION: A major should be dropped.

      Criteria

      (1) Existing specialized facilities which would be unused without a major in the area; additional specialized facilities needed.

      (2) Cost of program.

      (3) Availability of similar programs in adjacent institutions and throughout the State.

      (4) Current enrollment and accepted student/teacher ratios.

[1] See Item 8, p. 5, of Final Report of Task Force on Fiscal Exigency

[2] See Section H (5) (C) Internal Governance Procedures as approved by the Board of Visitors, May 8, 1973.

(5) Trends in enrollment.

(6) Opportunities for temporary utilization of faculty in other capacities.

(7) Projections which estimate demand for graduates in the field.

(8) Number of majors graduated per year and trend in numbers of graduates.

B. DECISION: Overstaffing exists within a department.

Criteria

(1) Current enrollment and accepted student/ teacher ratios.

(2) Trends in enrollment

(3) Opportunities for temporary utilization of faculty in other capacities.

(4) Number of faculty within the department; faculty specialties needed to maintain a program.

(5) Availability of similar programs in adjacent institutions and throughout the State.

(6) Existing specialized facilities which would be unused without a major within the area; additional specialized facilities needed.

2. The criteria to be utilized in making specific recommendations, when requested to do so by the President, regarding reductions in faculty in the event of a fiscal exigency declared by the President shall be the following:

In the event of a reduction in the number of faculty within a given department, but not the elimination of that unit, the principal consideration in determining which faculty to retain and which to release should be the maintenance of viable academic programs within that department. The determination of the minimal faculty needs and the areas of speciality which are essential to the department's continuance as a viable academic unit should necessarily involve the faculty of the department.

After faculty members who are essential to a department's continuance have been identified, the remaining faculty within a department should have priority in retention by . . . . on the basis of the following criteria, stated in order of importance:

A. Tenure and Seniority

B. Rank

A. Tenure and Seniority

Tenure should be assigned major importance in retaining faculty within a department having both tenured and non-tenured faculty. The possession of tenure by a faculty member should imply that he has established, by his past performance, his effectiveness as a teacher within his discipline and his efficiency in the discharge of professorial responsibilities.

The institution may be confronted with the necessity of reducing faculty within a department having all tenured faculty. In this case, a tenured faculty member, or members, would be released or reassigned. Seniority, rank, and evaluation, in that order, should be the criteria applied in this case.

B. Rank

A second criterion in deciding which faculty have priority in retention, distinctly secondary to that of tenure, is professorial rank at the college. It is recommended that, after consideration of the criterion previously described, rank should be applied in deciding which faculty to retain. This recommendation presupposes that rank at the college is awarded in recognition of meritorious service or the potential for meritorious service; consequently, the college generally will profit by retaining faculty members of higher rank.

C. Evaluations

If, after the application of the previously described criteria, no decision has been implied as to which faculty member, or members, to release within a department, then the evaluation of a faculty member by faculty, students, and administrators should be considered in making a decision. Utilizing evaluations in cases of fiscal exigency should be the criterion of last resort because of the inherent danger of confusing dismissals in this category with dismissals for other causes.

3. Recommendations from the College Planning and Budgeting Committee shall be forwarded to the Vice President for Academic Affairs.

4. Once a recommendation to terminate a faculty member for fiscal reasons has been approved by the Vice President for Academic Affairs, the President, and the Board of Visitors, the following administrative procedures shall be used:

   A. Offer the faculty member priority in employment if re-employment becomes possible. The place of a released faculty member will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and reasonable time within which to accept or decline it.

   B. Provide the released faculty member with a written statement identifying the reason for his dismissal.

   C. The standards of notification as stated in the . . . . Faculty or Personnel Handbook will, of course, be observed except in demonstrable fiscal emergencies which make this procedure impossible.

   D. Provide the released, non-tenured faculty member with the opportunity for a hearing before the Faculty Grievance Committee (Section L. (2), Final Report of the Task Force on Internal Governance). A tenured faculty member whose services are to be terminated due to fiscal exigency may, of course, appeal his case to the Academic Freedom and Tenure Committee (Section L. (1), Final Report of the Task Force on Internal Governance).

The guidelines and mechanisms to be used in the event of a fiscal exigency should be subjected to continuous review by the College Planning and Budgeting Committee.

It should be emphasized that an unfavorable trend in overall enrollment should not preclude the addition of new programs which show promise of attracting a substantial number of students to the College. Procedures for the implementation of such new procedures are provided for through routine machinery and through the system of internal governance.

The Task Force's recommendations are in no way intended to diminish the responsibility of the departments in making program and personnel decisions.

INTRODUCTION

At the beginning of the 1972 Fall Quarter, ... President of . . . ., utilized a series of three all-college convocations to share his ideas for the future of the College with faculty, staff and administrators. He suggested the immediate formation of a Task Force on Innovations, a Task Force on Internal Governance, and a Task Force on Fiscal Exigency.

On September 28, the composition of the Task Force on Fiscal Exigency was announced. The Task Force consisted of three faculty members elected at a general faculty meeting, three administrators appointed by the President, two undergraduate students appointed by the Student Government Association, and one graduate student appointed by the Graduate Student Association.

The organizational meeting of the Task Force was held on October 3. At this meeting, ... , charged the Task Force with the development of a fiscal exigency plan that could be effected either immediately or at any future date when the College might be confronted with a fiscal exigency. He requested that either an interim or a final report be prepared in time for presentation at the February, 1973, meeting of the Board of Visitors.

. . . indicated that he would appreciate being kept informed of the progress of the Task Force, but that he did not expect to meet again with the Task Force or to submit any suggestions that might influence its report.

At the second meeting, the Task Force decided to meet as a committee of the whole until such time as a plan of approach was fully developed and then to meet as sub-committees except when information from the entire Task Force was deemed necessary. The Task Force also agreed that letters should be sent to faculty, students, administrators, as well as to student organizations requesting suggestions regarding the development of a fiscal exigency plan. This request for suggestions ultimately resulted in meetings of the Task Force with the Faculty Assembly and with the officers of many interested faculty and student organizations (see appendix 3). A number of valuable ideas were also obtained through conversations of individual Task Force members with faculty and students.

The Task Force subsequently was divided into three sub-committees charged with the following responsibilities: (1) the development of procedures and forms required to obtain information necessary for the implementation of a fiscal exigency plan; (2) the development of a plan for the determination of the existence of overstaffing; (3) the . . . . development of a philosophy and a set of criteria and procedures which can be used in the event that a reduction in the number of faculty is required. After thorough discussions during meetings of the entire Task Force, the reports of these sub-committees were modified as necessary, and the versions ultimately accepted by the Task Force appear as the major sections of this report.

The following points should be clearly borne in mind by the reader while considering this report:

(1) The Task Force did not direct itself to situations involving the termination of faculty for reasons other than a fiscal exigency. The mechanism which applies in such cases has already been specified in the Faculty Handbook.

(2) The Fiscal Exigency Plan proposed in this report was by no means specifically developed to apply to the current academic year although the plan will have been formulated should a need arise to resort to it. The Task Force has attempted to suggest general guidelines and procedures whereby fiscal exigencies can be handled at any time in the future. Moreover, a fiscal exigency does present academic and administrative problems which are too complex to be solved by the application of any single predetermined formula. Each fiscal exigency is unique in many ways, and it should be recognized that a fiscal exigency can exist in certain isolated areas and not be apparent so far as the overall operation of the College is concerned.

The guidelines and mechanisms suggested in this report should be subjected to continuous review by the committee charged with the implementation of the fiscal exigency plan. The important point, however, is that the guidelines and mechanisms should be in existence when a fiscal exigency develops and should not have to be developed after the fact.

(3) The plan suggested in this report, together with the rationale used in developing it, is consistent with that used at other institutions of higher learning which have experienced a fiscal exigency. Information obtained from other institutions is presented in Appendix 5 of this report.

(4) No attempt has been made to test the mechanisms which have been suggested for the collection and the application of significant data.

(5) The Task Force carefully considered the question of legality before recommending criteria and procedures for faculty reduction in over-staffed areas. The concepts of tenure and academic freedom as well as previous interpretations of the courts in pertinent cases were thoroughly reviewed.

(6) The Task Force's recommendations are in no way intended to diminish the responsibility of the departments in making program and personnel decisions. The role of the departments in the implementation of a fiscal exigency plan is clearly stated in this report. The Task Force believes that its presentation of guidelines and mechanisms will provide for both consistency and fairness, which are vital to crucial personnel decisions.

(7) After this report has been made available to the faculty and administration for their reactions and suggestions, the Task Force, at the President's request, will prepare a brief working document to submit to the President who will in turn make his recommendations to the Board of Visitors at its Spring or Summer Meeting.

(8) In this report, the Task Force on Fiscal Exigency is recommending the establishment of a committee on Programs and Staffing, which would function as two subcommittees - the Subcommittee on Programs and the Subcommittee on Staffing. The Task Force is aware of making this recommendation prior to the submission of a final report by the Task Force on Internal Governance. Consequently, the Task Force on Fiscal Exigency recognizes that it is possible for a committee structure to be proposed by the Task Force on Internal Governance within which it might not be necessary to establish a separate committee on Programs and Staffing. If this is the case, the Task Force on Fiscal Exigency recommends that the responsibilities of a Committee on Programs and Staffing which are outlined in this report be assigned to the most appropriate committee (or committees) resulting from recommendations of the Task Force on Internal Governance.

DETERMINATION OF THE EXISTENCE OF OVERSTAFFING

COMMITTEE ON PROGRAMS AND STAFFING

It is recommended that a College Committee on Programs and Staffing be formed. This committee should consist of twelve elected faculty members: six from the School of Arts and Sciences, three from the School of Applied Arts and Sciences and three from the School of Education. Composing this committee should also be the Vice President for Academic Affairs; the Vice President for Business and Finance; an undergraduate upperclassman from each School appointed by the Executive Council of the Student Government Association and approved by the Student Legislature; and one graduate student, appointed by the Graduate Student Association.

Occasional meetings of the entire committee will be necessary for purposes of communication. However, most of the business of the committee will be conducted through two sub-committees: the Sub-Committee on Programs and the Sub-Committee on Staffing.

The Sub-Committee on Programs will be responsible for determining areas where overstaffing exists, for making recommendations regarding the reduction of faculty positions, and for making recommendations concerning the curtailment of programs.

The Sub-Committee on Staffing, upon receiving a recommendation from the other sub-committee, will be responsible (after a thorough consideration of departmental recommendations) for suggesting which faculty members must be released (or used in another capacity by the college) in an overstaffed department.

(Section on data omitted)

DECISIONS WHICH MIGHT BE REACHED BY THE SUB-COMMITTEE ON PROGRAMS

The following decisions might be reached by the Sub-Committee on Programs:

(1) Overstaffing exists with a particular department. The extent of overstaffing should be determined.

(2) A major should be dropped. Both undergraduate and graduate majors must be considered. A recommendation could be that a major be dropped, but that sufficient advanced courses be maintained so that certification opportunities within the area could still be provided. A more severe cutback could, of course, be recommended, leaving the department with only those courses required to meet the necessary service functions.

Whenever the Sub-Committee on Programs determines that over-staffing within a department is so serious that the number of faculty should be decreased; the charge of recommending which faculty are to leave the Department will rest with the Sub-Committee on Staffing.

CRITERIA USED IN MAKING DECISIONS

It is suggested that the following criteria be used by the Sub-Committee on Programs for arriving at the decisions already listed.

(1) DECISION: Overstaffing exists within a department.

Criteria

(a) Current enrollment and accepted student/teacher ratios.

(b) Trends in enrollment. Great deliberation is required. Reaction must not be so fast as to allow no opportunity for the unfavorable enrollment problem to correct itself.

(c) Opportunities for temporary utilization of faculty in other capacities.

(d) Number of faculty within the department; faculty specialties needed to maintain a program.

(e) Availability of similar programs in adjacent areas and throughout the State.

(f) Existing specialized facilities which would be unused without a major within the area; additional specialized facilities needed.

(2) DECISION: A major should be dropped.

Criteria

(a) Existing specialized facilities which would be unused without a major in the area; additional specialized facilities needed.

(b) Cost of program.

(c) Availability of similar programs in adjacent areas and throughout the State.

(d) Current enrollment and accepted student/teacher ratios.

(e) Trends in enrollment. Great deliberation is required. Reaction must not be so fast as to allow no opportunity for the unfavorable enrollment problem to correct itself.

(f) Opportunities for temporary utilization of faculty in other capacities.

(g) Projections which estimate demand for graduates in the field.

(h) Number of majors graduated per year and trend in numbers of graduates.

NEW ACADEMIC PROGRAMS

It should be emphasized that an unfavorable trend in overall enrollment should not preclude the addition of new programs which show promise of attracting a substantial number of students to the College. The Committee on Programs and Staffing, however, will not be concerned with the initiation of new academic programs. Logically, new programs originate within the department or school most directly related to the program and should be channeled from the appropriate department chairman and school dean to a college curriculum committee (and the Graduate Policy Committee , if applicable) and then to the Vice President for Academic Affairs.

PHILOSOPHY TO BE APPLIED IN THE REDUCTION OF FACULTY AND THE CURTAILMENT OF PROGRAMS

As early as 1940, a "Statement of Principles on Academic Freedom and Tenure," which was jointly sponsored by the American Association of University Professors and the Association of American Colleges, recognized the possibility that institutions of higher learning might find it necessary to either curtail or eliminate certain academic programs. In so doing, this action could involve the termination of probationary and/or tenured members of the faculty.

Under the section on Academic Tenure, the "1940 Statement" maintains that "termination of a continuous appointment because of financial exigency should be demonstrably bona-fide." In a "Statement on Financial Exigency and Staff Reduction," adopted in November, 1971, the Association of American Colleges asserted:

> "A college or university must dedicate all of its resources to the greatest possible achievement of its educational goals and purposes. Fiscal policy should reflect this commitment. In meeting this commitment unfavorable economic conditions may require an institution to reevaluate its priorities and reallocate limited financial resources, when it becomes necessary to curtail or eliminate some educational programs and terminate some staff appointments, the importance of such decisions to an institution, its students and the members of its academic staff requires the closest possible coordination of fiscal and academic planning. In particular, fair and effective procedures should be designed, if possible, before a crisis develops."

In a statement "On Institutional Problems Resulting From Financial Exigency," issued by the AAUP in September, 1972, there appears the following quote:

> "Among the various considerations difficult and often competing, that have to be taken into account in deciding upon particular reduction, the retention of a viable academic program should necessarily come first. Particular reductions should follow considered advice from the concerned departments, or other units of academic concentration, on the short-term and long-term viability of reduced programs."

In view of the high priority given to viable academic programs and to the concept of the faculty as an entity, which through its collective purpose and function sets the viability of the academic program, it is imperative that prior to any reduction in staff, a college or university should make a thorough analysis of all those phases of the budget not directly related to the academic program. The amounts allotted to non-academic personnel, maintenance costs, and service costs should be closely scrutinized as to the possibility of effectuating increased economies.

If it seems to be necessary to make a reduction in the faculty, there are several measures which should be considered before taking any action which would completely remove one or more faculty members.

(1) The AAUP release of September, 1972, "On Institutional Problems Resulting From Financial Exigency," states that "a change from full time to part time service . . . may occasionally be a feature of an acceptable settlement."

The equivalent of reducing one full position could be realized by placing four faculty members on three-fourths full employment. By various rotation schemes, in which certain given numbers of faculty members are involved, an element of equity could be established.

(2) In the same AAUP release, a measure more palliative than complete separation is suggested in the following quote: "In some cases, an arrangement for the early retirement of a tenured faculty member, by investing appropriate additional institutional funds into his retirement income, may prove to be desirable if the faculty member is himself agreeable to it."

Another device could be to permit one-to three-year sabbatical or educational leaves of absence at one-third or one-half of the regular salary. Included in this measure would be the consideration of certain fringe benefits. This device perhaps could offer the possibility of allowing a faculty member to retrain for another position for which there is a need in the institution.

(3) Another measure, offering possibilities of achieving economies, is to place a temporary freeze on all salaries. However, a way to realize a small reduction in expenditures and still maintain pay raises is to make a small differential in the amount or percent of the pay raises per professional rank. This procedure is of doubtful value. Perhaps the best arrangement regarding pay raises is to make the amount or percent consistent for all ranks.

Declaring a total moratorium on promotion, for a period not to exceed two years, is also a measure to consider. Moreover, a policy whereby faculty members are more carefully screened prior to granting tenure offers some chance of monetary relief.

CRITERIA TO BE USED IN THE REDUCTION OF FACULTY

In the event of a reduction in the number of faculty within a given department, but not the elimination of that unit, the principal consideration in determining which faculty to retain and which to release should be "the retention of a viable academic program,"[1] within that department. The determination of the minimal

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[1] A.A.U.P., "On Institutional Problems Resulting from Financial Exigency."

faculty needs and the areas of speciality which are essential to the department's continuance as a viable academic unit should necessarily involve the faculty of the department and the standing Sub-Committee on Staffing.

After faculty members who are essential to a department's continuance have been identified, the remaining faculty within a department should have priority in retention by . . . . on the basis of the following criteria, stated in order of importance:

1. Tenure and Seniority
2. Rank
3. Evaluation

1. Tenure and Seniority

Tenure, which is highly correlated to seniority at . . . . should be assigned major importance in retaining faculty within a department having both tenured and nontenured faculty. The possession of tenure by a faculty member should imply that he has established, by his past performance, his effectiveness as a teacher within his discipline and his efficiency in the discharge of professorial responsibilities. This statement probably does not invariably apply to the tenured faculty at . . . . particularly since decisions involving tenure as practiced in past years at this college made only rather limited allowance for faculty and student judgments; and the basis for such decisions, both for granting and denying tenure, was not adequately specified.

The institution may be confronted with the necessity of reducing faculty within a department having all tenured faculty. In this case, a tenured faculty member, or members, would be released or reassigned. Seniority, rank, and evaluation, in that order, should be the criteria applied in this case. It may be wise for . . . . to study what is the desirable proportion, or perhaps maximum percentage, of tenured faculty for the college as applied on a departmental basis.

2. Rank

A second criterion in deciding which faculty have priority in retention, distinctly secondary to that of tenure, is professorial rank at the college. It is recommended that, after consideration of the criterion previously described, rank should be applied in deciding which faculty to retain. This recommendation

presupposes that rank at the college is awarded in recognition of meritorious service or the potential for meritorious service; consequently, the college generally will profit by retaining faculty members of higher rank.

3. Evaluations

If, after the application of both of the previously described criteria, no decision has been implied as to which faculty member, or members, to release within a department, then the evaluation of a faculty member by faculty, students, and administrators should be considered in making a decision. Utilizing evaluations in cases of fiscal exigency should be the criterion of last resort because of the inherent danger of confusing dismissals in this category with dismissals for other causes. The Association of American Colleges has stated:

> There may be some temptation to seize upon financial exigency as an occasion to remove an allegedly incompetent staff member. In the latter case, the appropriate proceeding is a dismissal hearing and the faculty member is entitled to the protections and standards of due process set forth in the 1940 "Statement of Principles on Academic Freedom and Tenure."[2]

The Task Force on Fiscal Exigency endorses this statement.

PROCEDURES TO BE USED IN THE REDUCTION OF FACULTY

Once a decision has been made to terminate a faculty member for fiscal reasons, the following procedures are recommended by the Task Force for handling such dismissals.

The possibility may exist that the faculty member scheduled for dismissal can be retrained within an area in which additional or replacement faculty members are needed by the college. In such cases, and especially appropriate with a tenured faculty member, the institution should consider devoting some of its resources in aiding the faculty member to retrain through a sabbatical or educational leave program in order to enable him to continue his services to . . . .

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[2]Association of American Colleges, "Statement on Financial Exigency and Staff Reduction."

If there is no other choice than a dismissal, the institution should proceed as follows:

(1) Offer the faculty member priority in employment if reemployment becomes possible. The American Association of University Professors, in a 1968 statement on "Recommended Institutional Regulations on Academic Freedom and Tenure," stated that the released faculty member's place will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

(2) Provide the released faculty member with a written statement identifying the reason for his dismissal.

(3) Observe the standards of notice as stated in the 1971 . . . . Faculty Handbook. These standards are deemed fair and appropriate by the Task Force on Fiscal Exigency.

(4) Provide the released faculty member with the opportunity for a hearing before the College Committee on Programs and Staffing; and, if a tenured faculty member alleges reasons other than fiscal for his dismissal, then the faculty member shall be entitled to an appeal to the Academic Freedom and Tenure Committee with this Committee being primarily concerned with matters of academic freedom.

APPENDIX I

INTRODUCTORY STATEMENT FOR POLICY AND PROCEDURES FOR REDUCTION/REALLOCATION IN FORCE

The purpose of the attached policy is to establish rules to govern reduction/reallocations in force at . . . .

Many American colleges and universities have entered a period of financial constraint so severe as to require the release of personnel who would ordinarily be retained.

Until recently personnel recommendations and decisions have generally reflected increasing allocations. Growth tended to obscure non-reappointments which have occurred through the years. Expansion created a climate where the normal expectation was of continuing appointment for the individual and growth of programs and units.

Current circumstances have dramatically changed this situation in ways which make non-renewals more frequent, more difficult for the institution and more painful for individuals affected. Decisions not to renew contracts are not new experiences. The major difference is that . . . . and other institutions currently find themselves forced to allow some contracts to end solely because of loss of positions, without any adverse judgments of the persons involved. Two primary factors are always involved in personnel decisions: 1) the immediate and anticipated long term program needs of the institution, and 2) the competence and promise of personnel. In the attached policy the former factor is given an important role in personnel decisions while the latter is considered only to the extent that the competence and promise of faculty members is reflected in tenure, rank and academic degree.

The attached reduction/reallocation policy provides that faculty position and personnel allocations will be based primarily upon recommendations originating in the college's academic units; the academic units are given initial responsibility for all positions and personnel determinations.

The attached policy establishes no single set of directives or criteria to guide or restrict recommendations of the academic units in accomplishing required reductions/reallocations. Each

academic unit, when faced with the reduction/reallocation task, should consider the full range of its options, and, using decision-making procedures which allow full participation by all teaching faculty members of the unit, should formulate recommendations based on an assessment of the best interests of the students who are to be educated and the anticipated educational program needs of the college. It is the intention of the board that the termination of faculty members in accordance with the terms of the attached policy shall be undertaken only in those instances where, in the opinion of the Board, the academic units and the administration are unable to devise viable alternatives to faculty layoffs.

The attached policy makes provision for adherence during the reduction/reallocation process to the goals and requirements of the college's Affirmative Action Program.

The Board of Trustees acknowledges that since June, 1973, much thought and effort have gone into reduction in force planning and preparation. Particular note is taken of the work by the Select Committee on Service Programs and the Allocation Advisory Committee, whose preliminary reports are contained in the September 21, 1973, special edition of . . . . It is the Board of Trustees' desire that nothing in the following policy statement should interfere with the internal processing of these reports, nor with the presentation to the board on November 1, 1973, by the President of the final recommendations stemming from them.

The board wishes to commend the members of the college community for their united efforts in response to the problems which presently confront . . . .

POLICY AND PROCEDURES FOR REDUCTION/REALLOCATION IN FORCE

A. Purpose. The rules and procedures set forth herein are intended to achieve the following ends:

(1) To establish and maintain orderly procedures for allocating resources among various academic units or sub-units.

(2) To provide members of the college community with an opportunity to participate in decisions relating to reductions/reallocations in force.

(3) To provide maximum feasible notice in advance to faculty members who must be terminated from employment at . . . . in connection with a reduction/reallocation in force.

(4) To seek to minimize the distress on any faculty members who may be terminated in connection with the reduction/reallocation by assistance in securing reemployment.

B. Definitions. As used herein, the following terms shall have the indicated meanings:

(1) "Reductions/Reallocations in force" shall refer to the reallocation of faculty positions among, and the reduction or consolidation in whole or in part of, academic units or sub-units, and a concomittant termination from employment or transfer of faculty members, necessitated by budgetary crisis, legislative mandate, or other cause.

(2) "Academic unit" shall refer to a cluster college or academic department.

(3) "Academic sub-unit" or "sub-unit of an academic unit" shall mean (a) recognized programs of study within an academic unit; (b) identifiable courses and subject areas within an academic unit; (c) specialized areas of expertise which are necessary for faculty research and curricular development and implementation; (d) recognized subdivisions of an academic discipline; (e) other identifiable elements of the academic function.

C. Initiation of Reduction/Reallocation in Force. The College President shall have the authority to request the Board of Trustees to initiate a reduction/reallocation resulting in reduction of force. Such a request shall be accompanied by a written statement of reasons why such action is necessary or appropriate.

D. Reallocation of Full-Time Equivalent Faculty Positions Among Academic Units.

(1) Whenever the board determines that a reduction/reallocation resulting in reduction in force is or may be necessary or appropriate, the President will request the administration, the All-College Senate, the academic units, and all interested members of the college community to develop proposals concerning the reallocation of full-time equivalent faculty positions (FTE's) among the college's academic units.

(2) All proposals concerning the reallocation of FTE's shall be submitted in writing to the President or his designee. The President may establish time limits within which all parties shall be required to submit their proposals.

Each party submitting a proposal should indicate the factors or criteria which have been considered and the reasons for the particular proposal.

(3) The President or his designee may conduct a public hearing at which interested members of the college community will be allowed a reasonable opportunity orally to present information or opinions concerning the reallocation of FTE's among academic units.

(4) After considering all available information, the President or his designee shall prepare a written recommendation for presentation to the board.

(5) The Board of Trustees will review the recommendation of the President and all other proposals which have been timely submitted and may request such other evidence or information as it may deem necessary or appropriate. At the conclusion of its review the board will determine, in the exercise of its discretion, (a) the manner in which FTE's should be reallocated among the college's academic units, and (b) which particular academic units should be reduced or consolidated in whole or in part in connection with the reallocation.

(6) The President will thereupon issue a written order directing the administration and the affected academic units to accomplish an appropriate reduction in the full-time equivalent faculty positions within each academic unit which have been reduced or consolidated.

E. Procedure for Accomplishing Reductions in Full-Time Equivalent Faculty Positions in Particular Academic Units.

(1) The Allocation Advisory Committee of the Academic Coordinating Commission (Advisory Committee) shall provide information to all affected academic units concerning possible alternative methods for reducing full-time equivalent faculty positions (FTE's) which do not require the actual layoff of faculty members.

(2) In each instance in which the board has ordered a reduction in an academic unit's FTE's, the teaching faculty members and the appropriate administrator (department chairman or dean) of that unit shall first attempt to formulate concrete and viable alternative methods for reducing the unit's FTE's which will minimize or eliminate the necessity of terminating the employment of faculty members belonging to the unit.

In those instances in which the academic unit is unable to accomplish the entire required reduction by means other than faculty layoffs, the administrator and faculty members of the unit shall proceed to (a) divide the academic unit into academic sub-units; and (b) assign FTE's (or fractions thereof) to each sub-unit of the academic unit, provided that the total number of FTE's assigned to all sub-units of an academic unit shall not exceed the total number of FTE's allocated to the academic unit by the board.

(3) Each academic unit shall forward to the Advisory Committee and to the Vice-President for Academic Affairs a written proposal (or proposals) for accomplishing the required reductions in the unit's full-time equivalent faculty positions and a written summary of the decisions reached and the actions taken by the unit pursuant to subsection 2 of this section, together with a statement of the reasons for those decisions and actions.

(4) If an academic unit affected by a reduction in force fails to develop and submit a written proposal in accordance with the provisions of the above subsections, the Vice-President for Academic Affairs in consultation with the Advisory Committee and the appropriate academic deans, shall develop a proposal for realizing the required reductions in the unit's full-time equivalent faculty positions.

(5) The Advisory Committee shall examine the proposals submitted by each academic unit, together with any objections or counter-proposals submitted by individual faculty members. The criteria utilized by the Advisory Committee in evaluating the proposals submitted shall include but not be limited to the following:

(a) whether the academic unit has acted arbitrarily, capriciously, or unreasonably in developing the proposals;

(b) whether the proposals themselves are practical and reasonable;

(c) whether the proposals might have a negative effect on college inter-departmental programs or on the college as a whole;

(d) whether the proposals, if implemented, will result in the required reductions in full-time equivalent faculty positions within the academic unit.

After completing its review, the Advisory Committee shall forward its findings and conclusions to the respective academic units and to the Vice-President for Academic Affairs.

(6) The Vice-President for Academic Affairs shall consider all proposals and materials which have been submitted by the academic units, individual faculty members, and the Advisory Committee, and shall prepare a written recommendation for the President and the board. This recommendation and all proposals and other documents which have been received will be reviewed by the President and forwarded, together with the comments and recommendations of the President, to the board.

(7) After consideration of all materials submitted, the Board of Trustees will, in the exercise of its discretion, (a) designate the specific manner in which each academic unit shall realize the required reductions in full-time equivalent faculty positions, and (b) determine how many of each academic unit's faculty members, if any, must be terminated from employment.

When appropriate, the board will direct the President and the affected academic units to determine, in accordance with the procedures set forth in section F of this policy, which particular faculty members must be terminated from employment.

F. Termination of Faculty Members from Employment. In those instances in which the Board of Trustees requires an academic unit to terminate a faculty member (or faculty members) from employment, the following procedures shall apply:

(1) If the board has allocated full-time equivalent faculty positions (FTE's) among the various sub-units of an affected academic unit, the President, in consultation with the faculty members and the administrator of the unit, shall determine which individual faculty members are qualified on the basis of background, education, and experience to perform the duties, functions, and responsibilities required to maintain those sub-units to which the board has allocated FTE's (or fractions thereof).

(a) It is possible some individuals may be qualified only in sub-units which the board has ordered to be eliminated; if it is determined that an individual faculty member is not qualified to perform the duties, functions, and responsibilities of any academic sub-units to which the board has allocated FTE's (or fractions thereof), that individual will be terminated from employment.

(b) In those instances in which it is determined that the number of faculty members who are qualified to perform the duties, functions, and responsibilities of a particular academic sub-unit does not exceed the number of FTE's allocated to the sub-unit by the board, those faculty members shall not be terminated from employment.

(c) In each instance in which it is necessary to distinguish between faculty members who have been determined to be qualified only in sub-units where the number of qualified faculty members exceeds the number of FTE's (or fractions thereof) allocated by the board, the relative retention priority of each such faculty member shall be determined on the basis of the criteria in subsection 3 and 4 of this section.

(2) If the board has directed that terminations from an affected academic unit be made on the basis of the unit considered as a whole, then the relative retention priority of each faculty member of the unit will be determined on the basis of the criteria set forth in subsections 3 and 4 of this section.

(3) Subject to the conditions and exemptions set forth in subsections 1 (a) and 1 (b) and subsection 4 of this section, the following criteria shall be utilized in determining the relative retention priority of faculty members within an academic unit or sub-unit:

(a) tenured faculty members shall have priority over all untenured faculty members;

(b) between faculty members with equal tenure (or lack thereof), the faculty member with the highest rank shall have the greatest retention priority;

(c) between faculty members with equal tenure and equal rank, the faculty member who has obtained the highest academic degree appropriate to his or her academic duties at . . . . shall have the greatest retention priority;

(d) between faculty members with equal tenure, rank and academic degree, the faculty member who has the greatest seniority in rank shall have the highest retention priority;

(e) between faculty members with equal tenure, rank, academic degree, and seniority in rank, the faculty member who has the greatest total seniority shall have the highest retention priority;

(f) between faculty members of equal tenure, rank, academic degree, seniority in rank, and greatest total seniority, the faculty member who has the greatest seniority in the highest academic degree appropriate to his or her academic duties at . . . . shall have the greatest retention priority.

"Seniority" for the purposes of this subsection shall be computed in the following manner:

(i) service at . . . . shall be counted in full;

(ii) college and/or university service (and other academically-related experience as determined by the academic unit) prior to employment at . . . . shall be discounted 50 per cent;

(iii) service at . . . . shall be measured from the first day of classes from the first day of employment as a faculty member, which period shall include sabbatical leaves and leaves of absence spent on academic pursuits.

Faculty members with the least retention priority shall be the first to be terminated.

(4) In any instance where an application of the retention priority criteria in subsection 3 of this section will have an adverse impact on the college's Affirmative Action Program, the President may award retention priority (which is sufficient to prevent such an adverse impact) to one or more female or minority faculty members.

(5) Any faculty member who is aggrieved by a notice of termination may file a written appeal with the President. Such a written appeal shall clearly indicate the basis for the faculty member's grievance. The President shall review such a grievance on an informal basis and shall either uphold the previous decision of the college or order a revision or recision of the previous action. If the President denies the appeal of a faculty member, he shall furnish to the faculty member a written statement indicating the reasons for the denial.

Any faculty member who is aggrieved by the informal decision of the President upholding the faculty member's termination shall be entitled to a formal administrative review of the matter by the board in accordance with the provision of . . . . Chapter . . . .

G. Notice of Termination.

(1) Notice of termination from employment at . . . . in connection with a reduction in force shall be given to affected faculty members by the President in accordance with the following guidelines:

(a) Nontenured faculty members shall be notified in writing at least two (2) full academic quarters prior to the effective date of termination. The summer session shall not be considered as an academic quarter for purposes of this subsection;

(b) tenured faculty members shall be notified at least one academic year prior to the effective date of termination from employment. For purposes of this subsection, "one academic year" shall mean three (3) full academic quarters; the summer session may be considered a full academic quarter only if compensation for that session is augmented to total a full academic quarter's compensation.

(2) A faculty member who files an appeal from a notice of termination shall be deemed to have received formal written notice of termination as of the date of receipt of the original notice, and not as of the date of the final decision on the appeal.

H. Rehiring of Faculty Members.

(1) If, subsequent to the issuance of notices of termination to faculty members but prior to the effective date of those terminations, it should be determined that (because of modified legislative mandates or appropriations, or for other cause) it is no longer necessary to carry out some or all of the terminations, the board will determine which previously reduced academic units or sub-units should be reallocated full-time equivalent faculty positions; individual faculty members who have previously been terminated from those academic units or sub-units will then be rehired, with those individuals having the highest retention priority under the criteria set forth in section F being the first to be rehired.

I. Assistance in Securing Other Employment.

(1) In addition to the rehiring provisions in H above, the college community, especially at the unit level, should make every effort to provide assistance to laid-off faculty, who desire such assistance, to gain employment at other colleges and universities and elsewhere, in ways which may prove helpful:

(a) by calling to the attention of colleagues at other schools the availability of individuals whose appointments cannot be renewed;

(b) by providing faculty with letters attesting to the fact that the failure to renew a contract was the result of reduction in force;

(c) by arranging relocation conferences with laid-off faculty;

(d) by other appropriate means.